



COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 19-AR

September 13, 2021

Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to G. L. c. 159, §§ 12, 32, and 39, and G. L. c. 166, §§ 11 and 12, regarding the failure by individually-named common carriers of telecommunications services to file annual returns for calendar years 2016 and/or 2017.

ORDER VACATING JUDGMENT

In the matter of:

Worldwide Marketing Solutions, Inc.	2016, 2017 Annual Returns	19-AR-65
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I. INTRODUCTION

On June 16, 2021, Worldwide Marketing Solutions, Inc. (“Worldwide”) filed its 2016 and 2017 annual returns with the Department of Telecommunications and Cable (“Department”). Worldwide failed to timely file its returns during the proceedings in D.T.C. 19-AR, and the Department consequently cancelled Worldwide’s tariff and registration. Additionally, the Department assessed statutory forfeitures against Worldwide. In this Order Vacating Judgment, the Department, on its own motion, reconsiders its decision to cancel Worldwide’s tariff and registration and to assess statutory forfeitures against Worldwide. Based on the evidence outlined below, the judgment against Worldwide in D.T.C. 19-AR is VACATED.

II. BACKGROUND AND PROCEDURAL HISTORY

On November 4, 2020, the Department issued an Order involving the failure of several companies to file annual returns for calendar years 2016 and/or 2017. *See* D.T.C. 19-AR, Final Order (Nov. 4, 2020) (“Order”). In the Order, the Department, *inter alia*, found that Worldwide failed to file its 2016 and 2017 annual returns due to the Department on March 31, 2017 and March 31, 2018 respectively, and that the failure to file was unreasonable. *Id.* at 23-24. The Department assessed statutory forfeitures against Worldwide totaling \$34,375 as of November 4, 2020 and cancelled the company’s Statement of Business Operations (“SBO”) and tariff on file with the Department. *Id.* at 24, App. 2. The annual return is a three-page form detailing a company’s name, address, intrastate revenue, and a brief description of its business operations in Massachusetts.

III. ANALYSIS

The Department determines on its own motion that good cause exists to vacate the judgment against Worldwide given that Worldwide has come into compliance and that its

delinquency was merely an administrative oversight. The Department reconsiders previously decided issues if extraordinary circumstances require that the Department take a fresh look at the record. *Verizon New England Inc.*, D.T.C. 13-6, Hearing Officer Ruling, Verizon MA Motion for Reconsideration & Clarification at 3 (Nov. 29, 2013); *Verizon New England Inc.*, D.T.C. 07-9, Order on Motion for Reconsideration & Clarification at 10 (Dec. 7, 2009); *Verizon New England, Inc.*, D.T.C. 06-61, Order on Clarification & Partial Reconsideration at 11 (May 11, 2012). The burden to demonstrate such extraordinary circumstances is on the party requesting reconsideration. *Berkshire Gas Co.*, D.T.E. 01-56-A, Order on the Motions of Berkshire Gas Co. & the Att’y Gen. for Reconsideration, Clarification, & Recalculation at 7-8 (May 8, 2002); *Sprint Commc’ns Co. L.P.*, D.T.E. 00-54-A, Order on Sprint’s Motion for Reconsideration; Motion to Admit Late-Filed Exhibit; Motion for Official Notice at 14-30 (May 3, 2001).

Extraordinary circumstances warranting reconsideration may exist when: (i) “previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered” are newly brought to light; or (ii) an issue was wrongly decided due to the Department’s mistake or inadvertence. *Boston Edison Co.*, D.P.U. 90-270-A, Order at 2-3 (Sept. 27, 1991); *Mass. Elec. Co.*, D.P.U. 90-261-B, Order at 7 (Feb. 1, 1991); *New England Tel. & Tel. Co.*, D.P.U. 86-33-J, Order on Motions for Recalculation & Reconsideration at 2 (June 23, 1989). The Department has broad discretion on whether to vacate a judgment. *See Televergence Solutions, Inc.*, D.T.C. 18-AR, Order Vacating Judgment (Apr. 28, 2020) (“Televergence Order”); *Complaint of MCI WorldCom, Inc.*, D.T.E. 97-116-E, Order Denying Global NAPS, Inc.’s Motion to Vacate the Dep’t Of Telecomms. & Energy’s Orders, D.T.E. 97-116-C and D.T.E. 97-116-D/99-39, & to Reinstate D.T.E. 97-116 at 11, 13 (July 11, 2000) (“The Department rules on each motion in each proceeding based on the form and contents of the

motion before it and on the specific facts before the Department at that time In addition, the Department has broad discretion to decide whether or not to vacate a judgment.”). For the reasons discussed below, the Department reconsiders its cancellation of Worldwide’s SBO and tariff and its assessment of statutory forfeitures, and vacates its judgment against the company.

Although carriers must file an annual return by March 31, the Department may, for good cause, fix a date later than March 31 for a carrier to file its annual return. G.L. c. 159, § 32; G.L. c. 166, § 11. The Department has determined that:

Good cause is a relative term and it depends on the circumstances of an individual case. Good cause is determined in the context of any underlying statutory or regulatory requirement, and is based on a balancing of the public interest, the interest of the party seeking an exception, and the interests of any other affected party.

N.E. Tel. Alt. Reg. Plan, D.P.U. 94-50, Order (May 12, 1995) at 51. Under this standard, the Department balances the effect of granting an extension on the party benefitting from the extension, on the public, and on any other party who might be affected. *See Televergence Order; In re Delinquent 2010 and/or 2011 Annual Returns*, D.T.C. 13-AR, Order on Reconsideration & Vacating Judgment (May 22, 2019) (“13-AR Order”) at 2; Order at 9. Worldwide’s annual returns were delinquent, but the company ultimately filed the returns when current Worldwide staff became aware of the delinquencies. The company stated that the reason for the late 2016 and 2017 filings was staff shortages that caused the filing requirement to be overlooked. *See* E-mail from Cristian Sueldo, Worldwide, to William Bendetson, Presiding Officer, Dep’t (Sept. 2, 2021) (on file with the Department). Consequences absent an extension to the filing deadline include continued cancellation of Worldwide’s authority to do business in Massachusetts, as well as forfeitures in an amount vastly exceeding the company’s 2016 and 2017 reportable revenue.

The Department knows of no other party that would be affected by a decision to grant Worldwide an extension. The Department does not condone Worldwide's oversight about the status of its statutory requirements but finds that it ultimately acted in good faith by cooperating with the Department. Accordingly, the Department, on its own motion and for good cause, establishes June 16, 2021, as the filing deadline for Worldwide's 2016 and 2017 annual returns. *See* G.L. c. 159, § 32; G.L. c. 166, § 11; Televergence Order; 13-AR Order at 5. The Department extends this one-time courtesy to Worldwide with the expectation that Worldwide will comply with the Department's requirements going forward. Having so extended Worldwide's 2016 and 2017 annual return filing deadline, Worldwide is now current.

Based on the foregoing, the Department vacates the judgment against Worldwide. Specifically, the Department vacates the judgment for two reasons: (1) given the above change of Worldwide's deadline to file its 2016 and 2017 annual returns, the 2016 and 2017 returns are now considered to be timely filed; (2) the statutory forfeitures, if applied, would far exceed the company's 2016 and 2017 reported revenues. *See* 13-AR Order at 5-6 (outlining similar reasons for why a judgment could be vacated). Accordingly, the Department vacates the judgment against Worldwide.

IV. ORDER

Accordingly, after consideration, it is

ORDERED: That the judgment against Worldwide is VACATED.

By Order of the Department:


Karen Charles Peterson
Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may be brought to the Federal Communications Commission pursuant to 47 C.F.R. § 76.944.